

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3409 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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RAMANBHAI K PATEL

Versus

JAMALA GRAM PANCHAYAT

Appearance:

MR KS JHAVERI for Petitioners
MR DM THAKKAR for Respondent No. 1
None present for Respondent No. 2
MR MA BUKHARI, AGP, for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/07/2000

ORAL JUDGEMENT

1. The petitioners made an application to the Jamala
Gram Panchayat, respondent No.1 herein for construction
on plot No.338(55) of village Jamala owned by them on

25th June, 1988. That application came to be rejected by the Gram Panchayat on 26th November, 1988. Against this order, the petitioners preferred an appeal to the District Development Officer, Mahesana. On 22nd December, 1988, the appeal was returned to the petitioners with a direction to present the same before the Taluka Development Officer. Accordingly on 26th December, 1988, this appeal was presented before the Taluka Development Officer, which came to be allowed in favour of the petitioners vide order dated 19th January, 1989. The Gram Panchayat, the respondent No.1 herein, against that order of the T.D.O. filed revision application before the State Government. This revision application was allowed by the Additional Development Commissioner, Gujarat State, Gandhinagar on 19th February, 1990. The petitioners filed a review application but the same was also rejected on 12th March, 1990. Hence, this special civil application.

2. Learned counsel for the petitioners contended that the petitioners are the owners of the land in dispute and as such the T.D.O. has rightly granted permission in their favour to carry on construction thereon. It has next been contended that the petitioners are the owners of the land and they were not required to go for declaration before the civil court for right, title and interest therein. It has next been contended that nobody has objected against the application filed by the petitioners before the Gram Panchayat for grant of permission in their favour to put the construction on the land in dispute and the Gram Panchayat as well as the State Government has committed serious error of jurisdiction in declining to grant that application. Lastly, it is contended that even if it is taken that the petitioners have failed to produce any sufficient evidence of their ownership on the land in dispute, an opportunity could have been given to them to produce the evidence. Learned counsel for the petitioners submitted that the matter may be remanded back.

3. The counsel for the other sides supported the orders passed by the State Government.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

5. The petitioners claim right, title and interest in the land in dispute on the basis of they are being the successor of Gopalbhai Prandas. To prove this fact, the petitioners have produced only document i.e. a pedigree table which is prepared by the petitioners themselves.

This pedigree table is not a substantive piece of evidence and it is the petitioners own created document, and rightly on which no reliance could have been placed by the Gram Panchayat as well as the State Government and the application filed by the petitioners has been rejected. To those decisions of the Gram Panchayat and the State Government, no exception can be made out. Learned counsel for the petitioners repeatedly though put by the Court has failed to show any other evidence in respect of their right, title and interest in the land in dispute except the pedigree table. This is nothing but a waste document on which no reliance could have been placed. If on such document reliance is placed and right, title and interest are accepted then it is very dangerous to the Society as a whole and the people shall claim title on any land. The Gram Panchayat is perfectly legal and justified in its approach and rightly the State Government has confirmed that decision that unless the petitioners establishes that they are the legal successors of Gopalbhai Prandas, no permission could have been granted for construction on the land. Even if it is taken that the petitioners are in possession of the land in dispute, it will not confer any right, title and interest thereon more so, an enforceable right, title and interest.

6. In view of these facts, I do not find any illegality in the order of the State Government where it is held that the petitioners have first to get their title declared from a competent civil court.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. The petitioners are directed to pay Rs.500/= as costs of this petition to the State of Gujarat and Rs.1000/= as costs of this petition to the Gram Panchayat, respondent No.1.

zgs/-